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JAMES R. BROWNING, Clerk

IN THE

Supreme Court of the United States

OCTOBER TERM, 1958.

No. 434

UNIVERSAL TRADES, INC.,
Appellant,

v.

COMMONWEALTH OF PENNSYLVANIA,
Appellee.

Appeal from the Supreme Court of Pennsylvania.

APPELLANT'S PETITION FOR REHEARING ON MOTION TO DISMISS OR AFFIRM.

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On December 8, 1958, this Court entered the following order:

"PER CURIAM.

"The motion to dismiss is granted and the appeal is dismissed. Treating the papers whereon the appeal was taken as a petition for writ of certiorari, certiorari is denied.

"MR. JUSTICE FRANKFURTER took no part in the consideration or decision of this case."

Appellant requests Rehearing on Appellee's Motion to Dismiss or Affirm on the ground that this Court's Order permits the arbitrary exercise of the sovereign power of taxation by the Commonwealth of Pennsylvania in violation of Due Process:

By its Order, this Court places its stamp of approval upon the holding of the Supreme Court of Pennsylvania that the same incidents of the same specific intangible assets of appellant have a tax situs and location in Florida, the business situs state, and in Pennsylvania, the domiciliary state, and are subject to direct ad valorem property taxation by both states.

A long line of decisions of this Court establishes the validity of ad valorem property taxation by the business situs state of definite, specific intangible assets which have been so used as to acquire a tax situs in that state. When this situation exists, as it does in the instant case, it is impossible to conceive, from a logical standpoint, that the same incidents of the same specific intangible assets have a tax situs, also, in the domiciliary state for purposes of an ad valorem property tax. The Record shows that Pennsylvania is the bare domiciliary state and nothing more.

Either valid property taxation by the business situs or commercial domicile state should emancipate appellant's intangible assets from property taxation by Pennsylvania on the same incidents or the judicial constructions of this Court, upon which the principles of business situs and commercial domicile are founded, should be abolished or overruled. Otherwise, the Pennsylvania property tax at issue in the instant appeal violates Due Process.

Wherefore, appellant respectfully requests this Honorable Court to reconsider the Motion to Dismiss or Affirm and to note jurisdiction of this appeal.

We, the undersigned, certify that the within Petition for Rehearing is presented in good faith and not for delay.

MANUEL KRAUS,

ROY J. KEEFER,
Attorneys for Appellant.